

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shadman Khan	Team: Squad #12	CCRB Case #: 202001322	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/15/2020 12:15 AM	Location of Incident: § 87(2)(b)		Precinct: 26	18 Mo. SOL 8/15/2021	EO SOL 4/1/2022
Date/Time CV Reported Tue, 02/18/2020 1:22 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/18/2020 1:22 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Kurwin Klien	00254	942016	026 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Vincent Johnson	08537	948055	026 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Kurwin Klien	Abuse: Sergeant Kurwin Klien stopped § 87(2)(b)	§ 87(2)(b)
B.SGT Kurwin Klien	Abuse: Sergeant Kurwin Klien frisked § 87(2)(b)	§ 87(2)(b)
C.SGT Kurwin Klien	Abuse: Sergeant Kurwin Klien failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

## Case Summary

On February 18, 2020, § 87(2)(b) filed this complaint at the CCRB via telephone.

On February 15, 2020, at approximately 12:15 a.m., § 87(2)(b) in Manhattan Sgt. Kurwin Klien from the 26<sup>th</sup> Precinct stopped § 87(2)(b) (**Allegation A -Abuse of Authority: Stop,** § 87(2)(g) Sgt. Klien frisked § 87(2)(b) (**Allegation B -Abuse of Authority: Frisk,** § 87(2)(g) and left the location. § 87(2)(b) was not issued any summonses as a result of this incident. Sgt. Klien failed to provide § 87(2)(b) with a business card (**Allegation C – Abuse of Authority: Failure to provide business card,** § 87(2)(g)

The investigation received Body-Worn Camera video, which is attached to Board Review 01-02, and summarized in Board Review 03-04.

## Findings and Recommendations

### Allegation (A) Abuse of Authority: Sergeant Kurwin Klien stopped § 87(2)(b)

It is undisputed that on February 15, 2020, at approximately 12:15a.m., § 87(2)(b) in Manhattan, Sgt. Klien stopped § 87(2)(b) and frisked him.

In § 87(2)(b)'s statement to the CCRB (Board Review 05), he stated that after he parked his vehicle outside of § 87(2)(b), he walked to his building and unlocked the gate that led to the courtyard of the building. § 87(2)(b) stated that he was a § 87(2)(b), 6'2" tall, 211-pound black male who had been wearing a black fur jacket with a fur hood, blue jeans, dark colored cap, and dark colored sneakers when he was stopped. § 87(2)(b) walked halfway through the courtyard when he heard an officer instruct him to stop and show his hands. § 87(2)(b) immediately turned and faced the officer with his hands up in the air. Sgt. Klien walked up to § 87(2)(b) and felt around multiple jacket pockets. Sgt. Klien did not enter any of § 87(2)(b)'s pockets while he felt the pockets. Sgt. Klien then placed his hands around § 87(2)(b)'s waist, felt and patted around the area, and moved his hands down his legs.

Sgt. Klien provided statements to the CCRB on January 5, 2021 and April 27, 2021 (Board Review 06 and Board Review 17). In his statements, Sgt. Klien stated that on either February 12, 2020 or February 13, 2020, he received a complaint from a proprietor at § 87(2)(b) who said that there was a male who entered his store and removed a firearm from his jacket and placed it into his waistband. The complainant stated that the male was black, tall, and wore a black jacket and black pants with a shaved haircut with braids down the center of his head. Sgt. Klien received the transaction history from the store and determined that the suspect paid with an electronic Benefits Card. This also provided Sgt. Klien with the name § 87(2)(b). Sgt. Klien reviewed the store camera footage, which depicted the suspect and depicted the suspect move a firearm from his jacket to his waistband. He compared the suspect depicted in the footage to § 87(2)(b)'s arrest photographs and saw that they matched. Sgt. Klien stated that as a crime sergeant, he did not document the steps he took on this or other investigations.

On the date of the incident, Sgt. Klien was on patrol in his vehicle when he saw a vehicle in front of § 87(2)(b) that was the same make, model, and license plate number of § 87(2)(b)'s vehicle as per his identification. He made a positive identification of the individual inside the vehicle as § 87(2)(b) based upon descriptions and arrest photographs. § 87(2)(b) wore a dark blue navy hooded sweatshirt and a black jacket. Once § 87(2)(b) stepped out of his vehicle and walked toward § 87(2)(b), Sgt. Klien, exited his vehicle and instructed § 87(2)(b) to stop. § 87(2)(b) faced Sgt. Klien and raised his hands, which allowed Sgt. Klien to see that his

hooded sweatshirt and jacket pockets contained objects. The objects that he saw seemed hard and weighed down inside of § 87(2)(b)'s pockets. Sgt. Klien stated that the locations where he saw the objects fit the general description of where the initial complainant saw the gun. Sgt. Klien did not recall the size or shape of the objects in the hoodie and jacket pockets. Sgt. Klien frisked § 87(2)(b)'s sweater pockets, inner and outer pockets, and waistband area to check for firearms. Due to the nature of the complaint which involved a firearm and the unknown objects in § 87(2)(b)'s pockets, Sgt. Klien frisked his pockets and waist area. Sgt. Klien did not recall what kind of objects he felt during the frisk of § 87(2)(b).

In Sgt. Klien's BWC video, § 87(2)(b) is seen with his hands up in the air as Sgt. Klien feels around his front hooded sweatshirt pockets, inner jacket pockets, and waist area. At 00m21s of the timer, Sgt. Klien states, "We just had a situation right around the corner," but provides no other information about why § 87(2)(b) was stopped or frisked. Sgt. Klien verbally provides his rank, name and shield number to § 87(2)(b). He states, "I would like to apologize for the inconvenience," and at 01m10sec, holds his hand out to § 87(2)(b). § 87(2)(b) does not shake his hand. Sgt. Klien and the officers begin to walk away, when § 87(2)(b) asks, "Two-six, right?" Sgt. Klien turns back and says, "Two-six, Sergeant Klien." The video does not depict that § 87(2)(b) made a request for any officer's identifying information. Sgt. Klien does not state that he does not have business cards. As he walks away, he repeats his name and provides his precinct number and leaves the courtyard. § 87(2)(b) is seen wearing a dark blue hooded sweatshirt, a black jacket, dark colored pants, and a black hat. § 87(2)(b)'s hair style and color is obstructed from view due to the hat.

In PO Johnson's BWC video, at 00m30s of the timer, PO Johnson walks past a gate with Sgt. Klien in front of him. Sgt. Klien stops § 87(2)(b) and both PO Johnson and Sgt. Klien ask to see his hands. The remainder of the video is consistent with what is seen in Sgt. Klien's BWC video.

The investigation received a 911 call and radio message (Board Review 07-08) made on February 12, 2020 from the Communications Division regarding an incident at § 87(2)(b) related to this complaint. In the 911 call, placed at 11:07 p.m., a male caller provided the description of a black male who was greater than 5'8" tall, slim build, approximately 40 years old, and wore a blue jacket and brown hooded sweatshirt. In the radio message, placed at 11:12 p.m., an operator provided the description of a black male, approximately 6'2", slim build, approximately 40 years old, and wore a blue jacket and brown hooded sweatshirt. The operator also stated that the male went westbound on 128<sup>th</sup> Street. No information regarding the male's hairstyle was provided in either call.

The investigation received Stop Report § 87(2)(b) (Board Review 13) generated on February 15, 2020. The report indicated that § 87(2)(b) matched the description of a male seen in a surveillance video for an incident, which described a black male, approximately 6'0" tall, corn rolls on the top of his head, shaved sides, and wearing a black coat. Additionally, the report indicated that a check of a Benefit card used during the incident matched § 87(2)(b). The Stop report referenced a criminal complaint – § 87(2)(b) – and noted that § 87(2)(b) was stopped in connection with an open investigation into this criminal complaint.

The investigation submitted a request for § 87(2)(b). On March 11, 2021, Internal Affairs informed the investigation that they could not provide a copy of the complaint report because there was an ongoing investigation, and directed the investigation to request the document on another date (Board Review 14).



As discussed under Allegation A, Sgt. Klien stated that as a result of his investigation into a report that an individual was in possession of a firearm on February 12, 2020, he reviewed a video which depicted the suspect in possession of a firearm. He also stated that he identified § 87(2)(b) as a suspect of the crime via various methods. § 87(2)(g)

§ 87(2)(g)

As per Patrol Guide Procedure 212-11, officers are allowed to develop reasonable suspicion that a person is armed based upon information known to them. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (C) Abuse of Authority: Sergeant Kurwin Klien failed to provide § 87(2)(b) with a business card.**

It is undisputed that after Sgt. Klien frisked § 87(2)(b) he verbally provided § 87(2)(b) with his rank, surname, shield number, and precinct.

In § 87(2)(b)'s statement, he stated that after the frisk, Sgt. Klien informed § 87(2)(b) that they received a 911 call on West 129th Street involving a group of teenagers and that he had fit the description of a male wearing a black or blue bubble coat. § 87(2)(b) asked Sgt. Klien for his name and shield number, which he provided verbally. § 87(2)(b) did not state if he asked for a business card.

According to Sgt. Klien, after he had conducted the frisk of § 87(2)(b) he explained that he was stopped due to an incident that occurred nearby the block, provided his name, shield number, and command, and left the incident location. Sgt. Klien did not provide § 87(2)(b) with a business card because he did not have any on his person. Sgt. Klien first realized that he did not have any business cards during this incident. Sgt. Klien corrected this by providing his name, shield number, and command twice and replenishing his supply once he returned to the command.

As noted in the discussion of Allegation A, Sgt. Klien's BWC footage shows that he volunteered his name and shield number without § 87(2)(b) requesting the information. Sgt. Klien did not initially provide his command, but affirms his command when § 87(2)(b) asks him if he is from the 26th Precinct.

Stop Report § 87(2)(b) notes that officers provided their information verbally because business cards were not available at the time.

Patrol Guide 203-09: Public Contact-General (Board Review 15) states that officers are to "carry an appropriate amount of pre-printed Right to Know Business Cards" and "carry [an] appropriate amount of generic Right to Know Business Cards" for use if the supply of pre-printed Right to Know Business Cards becomes depleted." A business card is to be offered for certain law enforcement activities, including a stop and frisk of a civilian.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one CCRB complaint and has been named as a victim in three of the allegations (Board Review 10).
  - § 87(2)(b)
- Sgt. Klien has been a member of service for 14 years and has been a subject in two CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)

### Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 11, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 12).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 12

Investigator: Shadman Khan  
Signature

Investigator Shadman Khan  
Print Title & Name

May 5, 2021  
Date

Squad Leader: Carlmais Johnson  
Signature

IM Carlmais Johnson  
Print Title & Name

May 7, 2021  
Date

CCRB Case # 202001322

Reviewer:

\_\_\_\_\_  
Signature

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Print Title & Name

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Date